



STAFF REPORT ACTION REQUIRED

Impact of Airport Limousines on the Taxicab Industry

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| Date: | March 16, 2007 |
| To: | Licensing and Standards Committee |
| From: | Lenna Bradburn, Executive Director, Municipal Licensing and Standards |
| Wards: | All |
| Reference Number: | 4094 |

SUMMARY

This report canvasses the issues related to the “airport exemption” contained in the *Municipal Act* and subsequently not carried forward with the enactment of the *City of Toronto Act, 2006*, (the COTA), rationales related to its removal from Chapter 545, Licensing, of the City of Toronto Municipal Code (the Code), and other strategies for the public to travel to and from Lester B. Pearson International Airport (the Airport).

The Municipal Licensing and Standards (ML&S) Division, together with the Economic Development, Culture and Tourism Division, on behalf of the City of Toronto, consult with the Greater Toronto Airports Authority, the Provincial government, the Federal government, the Greater Toronto Transportation Authority, municipalities adjacent to the City of Toronto and other stakeholders regarding service for the travelling public going to or arriving at Lester B. Pearson International Airport for the purpose of developing a strategic policy framework and report to Committee at its first meeting of 2008.

City Council reaffirm support for the position to remove the “airport exemption” the City of Toronto Municipal Code in § 545-2b(2) Chapter 545, Licensing, subject to the results of consultations.

The City Solicitor, the General Manager of Economic Development Culture and Tourism, and the City Manager’s Office were consulted in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards Division recommends that:

1. The Executive Director, Municipal Licensing and Standards Division, and the General Manager, Economic Development, Culture and Tourism Division, on behalf of the City of Toronto, consult with the Greater Toronto Airports Authority, the Provincial government, the Federal government, the Greater Toronto Transportation Authority, municipalities adjacent to the City of Toronto and other stakeholders regarding service for the travelling public going to or arriving at Lester B. Pearson International Airport for the purpose of developing a strategic policy framework and report to Committee at its first meeting of 2008; and,
2. City Council reaffirm support for the position to remove the “airport exemption” from the City of Toronto Municipal Code in § 545-2B(2) Chapter 545, Licensing, subject to the results of the consultations.

Financial Impact

There are no financial impacts arising from this report beyond what has already been approved in the current year’s budget.

DECISION HISTORY

The Licensing and Standards Committee at its meeting of January 19, 2007, received a letter dated January 15, 2007, from Councillor Minnan-Wong requesting that the Executive Director, ML&S Division, report to the Licensing and Standards Committee on March 30, 2007, on options for using the powers under the new *City of Toronto Act, 2006*, to prevent unlicensed vehicles and out-of-town cars, known as “scoopers”, from taking fares from the Toronto taxi and livery industry. The letter specifically referenced section 155(2) of the *Municipal Act* (which was the provision of that Act that provided for the “airport exemption”), which was not carried forward into the *City of Toronto Act, 2006*.

The Licensing and Standards Committee at its meeting of February 16, 2007, adopted a motion dated February 15, 2007, from Councillor Moscoe, which further clarified that the report was to address the removal of the “airport exemption” from Chapter 545, Licensing, of the Code.

ISSUE BACKGROUND

Task Force to Review the Taxicab Industry (1998)

In April 1998, City Council established a Task Force to Review the Taxi Industry (the Task Force). The creation of the Task Force was the culmination of a number of concerns expressed by members of the public, the media, taxicab owners and drivers, the Toronto Board of Trade and the tourism industry respecting the state of the taxicab industry in Toronto. These concerns included the quality, safety and reliability of taxicabs, the level of customer service, the taxicab industry structure, and the ability of taxicab drivers to earn a fair wage.

The guiding principles of the review of the City of Toronto's taxicab industry were:

- The general public has the right to expect and demand clean, safe taxicabs;
- The general public has the right to expect and demand courteous, knowledgeable and experienced drivers;
- Taxicab drivers have the right to expect and demand a fair return for their labour;
- Taxicab plate holders have the right to expect and demand a fair return for their investment; and,
- The City has the right to expect and demand that its By-law will be obeyed.

The Task Force's guiding principles reflected the need for the City to consider all sectors of the taxicab industry, including the travelling public, in its deliberations and recommendations for reforms to the taxicab industry in order to maintain the financial viability and vitality of the taxicab industry in the City.

Recommendation 41 of the Task Force report adopted by City Council on November 28, 1998, stated "Toronto Licensing to work with the Ministry of Municipal Affairs and Housing of the Province of Ontario to seek amendments to the *Municipal Act* to remove the exemption for non-Toronto, Airport plated taxicabs and limousines that currently permits them to pick up fares within the boundaries of the City of Toronto."

"Airport Exemption"

Taxicabs and limousines licensed in municipalities other than the City of Toronto and which also held a license issued by the Airport, were permitted, through the "airport exemption" found in the *Municipal Act*, to pick up fares travelling to the Airport from the City. The "airport exemption" was restated in Section 545-2B(2) of the Code, Chapter 545, Licensing, which reads as follows:

B. Applicability to owners and drivers of cabs.

- (1) Subject to Subsection B(2) of this section, Subsection A(9) shall apply to every owner and every driver of a cab engaged in the conveyance of goods or

passengers from any point within the City of Toronto to any point outside the City of Toronto except where such conveyance is made to an airport owned and operated by the Crown in right of Canada situate outside the municipality by a cab bearing a valid and subsisting plate issued in respect of such airport under The Government Airport Concession Operations Regulations made under the *Department of Transport Act (Canada)*.

The Task Force noted that:

...the ability for unlicensed taxicabs to operate relates to provisions of the *Municipal Act*. Generally, taxicabs may only pick up fares in the jurisdiction in which they are licensed. The By-law requires that only Toronto Licensing licensed taxicabs may pick up fares in Toronto. Similar by-laws in other jurisdictions prevent Toronto taxicabs from picking up fares in neighbouring regions.

Section 232(1)(b) of the *Municipal Act*, however, allows for all airport-plated taxicabs to pick up passengers in the City of Toronto for conveyance to the airport. This provision has created a situation where out-of-town cabbies, entering the city under the guise of picking up a prearranged fair for transport to the airport, have fallen into the practice of picking up hailed fares. Of the roughly 600 airport-plated vehicles, only 70 are Toronto Licensing licensed. It follows that some 530 taxicabs operate within Toronto boundaries, to the detriment of Toronto taxicabs.

While the By-law provides for unlicensed vehicles to be penalized, such prosecutions are rendered impractical by the *Municipal Act* provisions; quite simply, it is almost impossible to prove in a court that the infringing taxicab is not engaging in airport business as authorized by the Act. In effect, the provision paves the way for over 500 airport-plated vehicles to operate in Toronto without fear of penalty.

The Task Force feels that the most effective remedy for the problem would be to amend s.232(1)(b) to expressly prohibit out-of-town cabbies from picking up fares within the boundary of Toronto thereby removing the current exemption.

The Task Force further noted that "Every recommendation is an integral part to an overall plan designed to improve the taxicab industry...Some recommendations directly address the quality of vehicles and training requirements, while others address issues less obvious to the public such as regulations and structure of the industry."

Implicit in recommending that the City work with the Ministry of Municipal Affairs and Housing to remove the "airport exemption" from the *Municipal Act* was the idea that Chapter 545, Licensing, of the Code would also be amended to remove the "airport exemption" contained in Section 545-2B(2).

COMMENTS

Toronto Municipal Code, Chapter 545, Licensing, “Airport Exemption”

Changes in Provincial Legislation

With the enactment of Bill 195 on December 15, 1978, the Provincial government amended the *Municipal Act* to allow municipalities to require licences for taxicabs and limousines if a trip originated within its borders. The former Municipality of Metropolitan Toronto added the point-of-pick-up licence requirement and the “airport exemption” in the provisions of the Metropolitan Toronto Licensing By-Law 107-78. The provision remained in the Metropolitan Toronto Licensing By-law and, post amalgamation, the provision was carried forward into the Code, Chapter 545, Licensing.

During consultations with the Provincial government regarding the development of the COTA, the City recommended not carrying forward the “airport exemption” from the *Municipal Act* in keeping with the recommendations of the Task Force. While the Provincial government maintained the “airport exemption” in the *Municipal Act* in 2006, it was not carried forward in the COTA and thus is no longer contained in the enabling Provincial government legislation of the City of Toronto. Therefore, the City now has the ability, but not the requirement, to amend Chapter 545 relating to the “airport exemption” in the Code.

The removal of the “airport exemption” from the Code, Chapter 545, Licensing, would not affect the 79 GTAA licensed taxicabs, which also hold a license issued by the City of Toronto, as they would continue to be able to transport fares to and from the City and the Airport.

Taxicabs and limousines licensed by the City of Toronto, which do not have a GTAA licence, would continue to be able to transport passengers from the City of Toronto to the Airport, but not the reverse, unless picking up a pre-arranged fare or if requested to do so by the GTAA.

GTAA licensed taxicabs and limousines, which hold licences from other municipalities, would be able to transport passengers from the Airport to the City of Toronto only. They would no longer be able to pick-up fares in the City of Toronto. These vehicles and operators are not currently subject to the provisions of Chapter 545 of the Code. They do not fall under the City of Toronto’s jurisdiction regarding owner and driver licensing, training, mechanical and physical vehicle inspections and the investigation of customer complaints.

IMPACTS

Travelling Public

In today's globally competitive economy, airports - as the gateway to the world - are a critical component of the strategic infrastructure supporting economic growth, business retention, investment attraction, and job creation. Airport accessibility (e.g., the convenience and quality

of the trip to/from the airport) is a key element of a successful airport. Airport accessibility was raised as a factor in the City's Olympic bids and planning analysis for the 2015 World's Fair. There has also been considerable discussion over the past 10 - 15 years about constructing a fixed rail link to the Airport, at significant cost, to improve accessibility and reduce travel by automobile and the associated pollution.

The GTAA has invested heavily in airport improvement and expansion to increase its passenger handling capacity from 28 million to 50 million persons annually. This increased capacity will benefit the economy of the City. It is important that a high level of service be available to transport passengers to and from the Airport. The GTAA licensed taxicabs and limousines provide executive level service. It may not be in the best interest of Toronto residents, businesses, visitors, or investors to reduce the availability of this service.

Environment

Removing the “airport exemption” may result in adverse environmental consequences due to a likely increase in “dead-heading.” Dead-heading is when a taxicab or limousine is required to make a one-way trip without a customer in the vehicle. Further, greater congestion on the City’s roads and an increase in greenhouse gas emissions may occur. A decision that results in increasing the amount of “dead-heading” is inconsistent with the environmental focus of the City of Toronto, the Provincial government and the Federal government.

Enforcement

Enforcement of provincial and municipal offences relating to the taxi and limousine industries is carried out by the Toronto Police Service and ML&S. While both organizations can enforce the related municipal bylaws, other provincial offences are enforced by police officers only.

Role of the Toronto Police Service

The Provincial government on January 1, 2006, enacted Bill 169, which amended the *Highway Traffic Act* by adding Section 39.1, which reads as follows:

Picking up passenger for compensation prohibited without licence, etc.

39.1 (1) A driver of a motor vehicle other than a bus shall not pick up a passenger for the purpose of transporting him or her for compensation where a licence, permit or authorization is required to do so by,

- (a) the *Public Vehicles Act*;
- (b) a municipal by-law passed under Part IV of the *Municipal Act, 2001*;
- (c) a regulation made under the *Department of Transport Act* (Canada);
or
- (d) an airport or airport authority,

except under the authority of such licence, permit or authorization. 2005, c. 26, Sched. A, s. 4.

Same

(2) The owner of a motor vehicle other than a bus shall not permit the motor vehicle to be driven by a person who the owner knows or has reason to believe intends to contravene subsection (1). 2005, c. 26, Sched. A, s. 4.

Same

(3) No person shall arrange or offer to arrange for a passenger to be picked up in a motor vehicle other than a bus for the purpose of being transported for compensation except under the licence, permit or authorization that is required to do so, as described in subsection (1). 2005, c. 26, Sched. A, s. 4.

With the removal of the “airport exemption” from the COTA and Chapter 545, all pick-ups in Toronto would require a Toronto licence or a licence issued under the *Public Vehicles Act*. Bill 169 specifies that it is a provincial offence for a person to pick up fares without a municipal licence required by a bylaw passed under the *Municipal Act*. However, it is not clear whether s. 39.1 would apply where the licence requirement is passed under the COTA. If airport vehicles are required to be licensed by a by-law passed under COTA, they may not be in violation of this section, although anyone else picking up passengers without a Toronto licence or a licence issued under the *Public Vehicles Act* would be in violation of this section. This issue is canvassed in the City Solicitor’s supplementary report.

Role of Municipal Licensing and Standards Division

ML&S is responsible for enforcing the City’s licensing bylaws. ML&S does not have the authority to enforce provisions of the *Highway Traffic Act*. Targeted enforcement strategies are used to address unlicensed taxicabs and limousines operating within the City. As noted by the Task Force report above, enforcing the requirement that GTAA licensed taxicabs and limousines which hold licences from other municipalities to transport fares they pick up within the City only to the Airport is difficult given that ML&S officers do not have the authority to stop vehicles on the roadway; such vehicles are not governed by the City’s bylaw; and, there is no requirement for such operators to have pre-arranged fares as is the case with City licensed limousines.

STRATEGIES

An approach that looks at the big picture and focuses on improving the overall business climate and enhancing the quality and accessibility of services available within the City is necessary. Taxicabs and limousines with a GTAA licence are part of the Toronto transportation industry and provide a valuable service to City residents, businesses, visitors and investors.

Regional Approach

Taxicabs and limousines are now separately licensed by individual municipalities and the GTAA, thus fragmenting the industry. The Toronto region, however, is a contiguous

megalopolis with administrative boundaries that are invisible to most residents and business and, particularly, to visitors. The City should consider a customer-service approach that results in the highest quality service to Toronto residents, businesses and visitors; mitigates environmental consequences; and is fair to the taxicab and limousine industry serving Toronto, including but not limited to those licensed by the City of Toronto. This may require adjusting our administrative process to facilitate improved service.

Reciprocal Licensing Arrangements

The City has entered into reciprocal licensing arrangements regarding the licensing of businesses and individuals in the past, particularly in the area of trades licensing. The City may consider utilizing reciprocal licensing arrangements in the context of the provision and enhancement of ground transportation by taxicabs and limousines to and from the Airport.

Consultation

The City now has the ability to determine whether to remove or retain the “airport exemption” from the Code, while it has been retained in the *Municipal Act* for other municipalities. The City should consult with the Greater Toronto Airports Authority, the Provincial government, the Federal government, the Greater Toronto Transportation Authority, municipalities adjacent to the City of Toronto and other stakeholders regarding service for the travelling public going to or arriving at the Airport due to the fact that removing the exemption from the Code will have repercussions in other jurisdictions.

The consultation with stakeholders and the re-examination of the rationale for the adoption of the recommendation in the Task Force report over 8 years ago is consistent with the city’s role as an elected, responsible and accountable order of government. The purpose of these consultations would be to develop a strategic policy framework for the provision of ground transportation to and from the Airport.

The guiding principles for this consultation can be found in the COTA, which states in Subsection 1(3) that “For the purposes of maintaining such a relationship, it is in the best interests of the Province and the City to engage in ongoing consultations with each other about matters of mutual interest and to do so in accordance with an agreement between the Province and the City.” As the removal of the airport exemption would impact other jurisdictions within the province, in keeping with the COTA, the City should consult with the province before taking action.

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List of Attachments:

1. Appendix “A” Lester B. Pearson Airport Licensing History
2. Appendix “B” Greater Toronto Airport Authority (GTAA) Licensing

Lester B. Pearson Airport Licensing History

In 1978, the City of Toronto began lobbying the Provincial government to amend the *Municipal Act* to allow municipalities to pass by-laws relating to point-of-pick-up legislation. The Province responded by passing Bill 195, amending the *Municipal Act*, to provide that taxicabs could only pick up fares within the municipality in which they were licensed. Further, it provided that if the fare crossed a municipal boundary, the taxicab had to return to its home municipality empty in order to pick up its next fare.

As the point-of-pick-up legislation in Bill 195 created a conflict between Lester B. Pearson International Airport (the Airport) and the City of Mississauga, as the Airport, while being under federal jurisdiction, is located in Mississauga. Taxicabs with Airport permits, which were not licensed by City of Mississauga, were subject to that municipality's point-of-pick-up legislation. In order to resolve that conflict, the Provincial government included in the amendment to the *Municipal Act* a provision that prohibited the City of Mississauga from passing by-laws regulating owners and drivers of taxicabs, if the fares originated at the Airport, other than those licensed by the City of Mississauga.

In December 1978, the *Municipal Act* was amended to include the "airport exemption" enabling any taxicab or limousine with an Airport permit to pick up fares in Toronto provided the fare was being transported to the Airport. This created a corresponding situation whereby Toronto licensed taxicabs, which did not hold Airport permits, were allowed to drop fares off at the Airport, but were only permitted to pick up fares at the Airport on a prearranged basis, which included the payment of a prearrangement fee (Dispatch Administration Fee) to the Transport Canada.

The Toronto taxicab industry continued to pressure the Provincial government to remove the "airport exemption" from the *Municipal Act* by making deputations regarding various pieces of Provincial legislation and staging protests at Queen's Park. On a number of occasions the Provincial government indicated that the "airport exemption" would be removed. However, this did not occur until the enactment of the City of Toronto Act (COTA) on January 1, 2007.

On December 20, 2006, the Provincial government enacted Bill 130, which amended the *Municipal Act, 2001, S.O. 2001, c.2.*, The Provincial government debated the "airport exemption" at committee just prior to the enactment of the legislation and a decision was made to leave the "airport exemption" in the *Municipal Act*.

Appendix B

Greater Toronto Airport Authority (GTAA) Licensing

The GTAA currently licences 360 taxis and 276 limousines to provide ground transportation services to and from the Airport. Of these vehicles, 79 are Toronto licensed taxicabs and the other taxicabs and limousines are licensed in other municipalities serviced by the Airport, as indicated in Table 1, below.

TABLE 1

| Municipal Association | Total Number of Taxi Permits & Licenses | Total Number of Limo Permits & Licenses |
|------------------------------|--|--|
| Mississauga | 191 | 276 |
| Toronto | 79 | 0 |
| Markham | 53 | 0 |
| Brampton | 15 | 0 |
| Vaughan | 9 | 0 |
| Richmond Hill | 8 | 0 |
| Kawartha Lakes | 2 | 0 |
| Pickering | 2 | 0 |
| Dundas | 1 | 0 |
| TOTAL | 360 | 276 |

The fares charged by GTAA licensed vehicles are predetermined, based on a GTAA zone system, to destinations within the Greater Toronto Area (GTA) and through a charge per kilometre for destinations outside the GTA. In 2005 the GTAA conducted a ground transportation survey regarding the public's mode of transportation utilized in accessing the Airport. The results of the GTAA survey are as indicated in Table 2, below.

TABLE 2

| Transportation Utilized to Access Lester B. Pearson International Airport | |
|--|------------|
| Private Vehicles | 58% |
| Taxicabs | 14% |
| Limousines | 10% |
| Rental Cars | 9% |
| Buses | 8% |